IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4492 of 2007()

CC.7/2007 of ADDL.C.J.M.,THALASSERY
[CRIME NO.115 OF 2006 OF EDAKKAD POLICE STATION]

.....

PETITIONER/1ST ACCUSED

ASLAM, S/O. HAMZA,
MOOSA'S, MUZHAPPILANGAD.

BY ADV. SRI.P.M.HABEEB

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4492 of 2007

Dated this the 24th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. He faces allegations under Section 498A I.P.C. According to the petitioner, the matter stands settled between the parties. The petitioner was employed abroad. In these circumstances, he could not appear before the learned Magistrate. Warrant of arrest has been issued by the learned Magistrate against the petitioner.

2. According to the petitioner, he is absolutely innocent. His failure/omission to appear before the learned Magistrate was not wilful. The petitioner now wants to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007